THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22427 of 2007

Dated: 25.10.2007

Between:

The Depot Manager,
APSRTC, Bus Depot Jangaon,
Warangal District.

.... PETITIONER

AND

The Presiding Officer,
Industrial Tribunal-cum-Labour Court,
at Warangal and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22427 of 2007

Order:

Assailing the award dated 09.03.2007, passed by the Labour Court, Warangal, in I.D. No. 84 of 2004, modifying the punishment imposed on the 2nd respondent-workman from that of deferment of annual increment for a period of two years with cumulative effect to that of deferment of annual increment for a period of two years without cumulative effect, the petitioner-Corporation filed the present writ petition.

The 2nd respondent-workman is employed as a Driver in the petitioner-Corporation. He was issued a charge sheet dated 09.08.1996 alleging that the bus driven by him met with an accident on 03.04.1996, causing death of a Cyclist. The 2nd respondent-workman submitted his explanation denying the charges framed against him. The petitioner-Corporation, without conducting any regular departmental enquiry and without affording any opportunity, deferred the annual increment of the 2nd respondent-workman for a period of two years with cumulative effect, by proceedings dated 27.09.1996. The 2nd respondent-workman kept quiet for nearly five years and preferred an appeal on 07.01.2000, but the same was rejected by the appellate authority as time barred. Thereafter, the 2nd respondent-workman approached the Government, and the Government made a reference to the Labour Court, under Section 10 (1) (d) of the Industrial Disputes Act, 1947, to determine the question as to whether the action of the Depot Manager, APSRTC, Jangaon, in imposing the punishment of deferment of annual grade increment for a period of two years with cumulative effect against the 2nd

respondent-workman is justified?. The same was numbered as I.D. No. 84 of 2004. The Labour Court, after considering the entire material on record, held that the action of the Depot Manager, APSRTC, Jangaon, in imposing the major punishment against the 2nd respondent-workman without conducting any regular departmental enquiry, is not justified, and accordingly modified the punishment to that of deferment of annual increment for a period of two years without cumulative effect. Aggrieved by the same, the petitioner-Corporation filed the present writ petition.

Learned Standing Counsel for the petitioner-Corporation submits that though the proved charges are very serious in nature, the disciplinary authority, after taking a lenient view, has imposed a minor punishment on the 2nd respondent-workman, but the Labour Court, without appreciating the same, erred in interfering with the punishment imposed by the disciplinary authority i.e., deferment of annual increment for a period of two years with cumulative effect into deferment of annual increment for a period of two years without cumulative effect. He, thus, prays to allow the writ petition and set aside the award passed by the Labour Court.

Heard the learned Standing Counsel for the petitioner-Corporation and perused the material on record.

It is an admitted fact that the petitioner-Corporation imposed the punishment of deferment of annual increment for a period of two years with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the 2nd respondent-workman before imposing the penalty. Since the punishment of stoppage of annual increment for a period of two years was imposed without conducting regular departmental enquiry, the Labour Court, after considering the entire material on record, has rightly modified the said punishment to that of deferment of annual increment for two years without cumulative effect, and no exception can be taken thereto.

That apart, the apex Court in **Kulwanth Singh Gill v. State of Punjab**[1], held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry, and following the said judgment, this Court, in number of cases, held that imposing major penalty without conducting regular departmental enquiry is bad and modified the punishments to that of "deferment of annual increments without cumulative effect".

In that view of the matter, the writ petition is devoid of merit and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 25.10.2007
Nsr

[1] 1991 Supp (1) SCC 504